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COMMISSION ON HUMAN RIGHTS

Fifty-seventh session

SUMMARY RECORD OF THE 75th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 24 April 2001, at 3 p.m.

Chairperson: Mr. DESPOUY (Argentina)

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(b) DISAPPEARANCES AND SUMMARY EXECUTIONS;

(c) FREEDOM OF EXPRESSION;

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The meeting was called to order at 3.20 p.m.

RATIONALIZATION OF THE WORK OF THE COMMISSION (agenda item 20) (continued) (E/CN.4/2001/115 and 143; E/CN.4/2000/112)

1. Mr. ALFONSO MARTÍNEZ (Cuba) said that the crisis facing the Commission was one of identity as well as one of operational functioning. The Commission was in a state of functional "chaos" and its procedures were a "circus". Overt political manipulation and selectivity governed not only its decisions under agenda item 9 but also the reports of its thematic mechanisms, which were originally designed precisely to avoid the frictions which resolutions on specific countries always generated and continued to generate. Either way, the result was the same: the countries of the South always ended up in the dock facing their prosecutors from the North.

2. It had clearly been forgotten that the Commission was supposed to generate confidence and encourage international cooperation by identifying approaches which could be applied to all States equally and which avoided harmful politicization and selectivity. The Commission should facilitate the identification of real solutions to problems by using approaches other than confrontation, particularly the strengthening and development of national capacities.

3. Although the Commission worked longer and harder every year, its work was becoming increasingly removed from reality. At the last session there had been 69 meetings: the 75th meeting of the current session was in progress, and there was a night meeting and two full days of work still to go. There were hundreds more pages to read than the previous year, and a greater number of decisions and resolutions. More reading meant less analysis and less negotiation. There was not enough time to collect all the documents available, let alone to study them and reflect on their contents. As always, it was the countries of the South that were most affected: many of them had small, even one-person, delegations.

4. Some delegations monopolized issues, and regarded any attempt to change their ideas as pure heresy, an approach that did not help the process of reaching agreement and establishing cooperation. The inability to conduct effective consultations partially explained the plethora of amendments and the consequent need for roll-call votes.

5. It was no use pretending that the Commission's working methods were correct. There was an urgent need for the Commission to undertake an exhaustive review of its working methods. His own delegation was ready to begin such an exercise at the next session.

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:

(a) TORTURE AND DETENTION;

(b) DISAPPEARANCES AND SUMMARY EXECUTIONS;

(c) FREEDOM OF EXPRESSION;

(d) INDEPENDENCE OF THE JUDICIARY, ADMINISTRATION OF JUSTICE, IMPUNITY;

(e) RELIGIOUS INTOLERANCE;

(f) STATES OF EMERGENCY;

(g) CONSCIENTIOUS OBJECTION TO MILITARY SERVICE;

(agenda Item 11) (continued) (E/CN.4/2001/L.36, L.47, L.59-L.62 and L.65; E/CN.4/2001/2-E/CN.4/Sub.2/2000/46, chapter I, draft decision 1)

Draft resolution on torture and other cruel, inhuman or degrading treatment or punishment (E/CN.4/2001/L.47)

6. Mr. RÉE IVERSEN (Observer for Denmark), introducing the draft resolution, said that the representative of Brazil and the observers for Angola, Chile, Estonia and the former Yugoslav Republic of Macedonia had become sponsors. He began by announcing a technical revision of paragraph 7, whereby the verb "*Recalls*" should be replaced by "*Takes note of*". In the draft resolution Governments were called upon to take effective legislative, administrative, judicial or other measures to prevent the use of equipment specifically designed to inflict torture and the Special Rapporteur was requested to study the situation of the trade in and production of such equipment with a view to finding the best ways to prohibit such trade and production.

7. The text of the draft resolution was the result of intensive open-ended consultations, with compromises being reached on a number of issues. Unfortunately, it had not been possible to reach full agreement, even though the sponsors had offered a compromise solution regarding the amendments proposed by Pakistan (E/CN.4/2001/L.62). The Commission thus had before it two sets of amendments - the Pakistani and Cuban (E/CN.4/2001/L.65) - to a draft resolution which had usually been adopted without a vote. He appealed to the members of the Commission to vote against the proposed amendments.

8. Mrs. IZE-CHARRIN (Secretary of the Commission), said that the representatives of Mauritius, the Republic of Korea and South Africa and the observers for Belarus and Panama had become sponsors of the draft resolution.

9. Mr. AKRAM (Pakistan), introducing the amendments to the draft resolution proposed in document E/CN.4/2001/L.62 on behalf of the States members of the Organization of the Islamic Conference (OIC) other than those which were sponsors of the draft resolution, said that the amendments had been proposed during the so called open-ended consultations, but the responses of the sponsors had not been positive and it had been necessary to table them formally. It was proposed that the words "including occupied territories" should be included in paragraph 3, because the words "any territory under their jurisdiction" were insufficiently clear. It was felt that there should be a specific reference to territories under foreign occupation since it was precisely in such territories that torture was most commonplace and used with the greatest impunity.

10. The call upon Governments in paragraph 8 should also seek to halt the production of and trade in such equipment. If instruments of torture were not produced or sold, their use would automatically decline. That was the logic behind innumerable treaties, such as the Ottawa Convention banning anti-personnel landmines. It was interesting to note that countries which had been the most vocal in denouncing torture were also the most unwilling to accept a reference in the draft resolution to the production of instruments of torture.

11. The requested study of the situation of the trade in and production of such equipment (paragraph 9) should be carried out by the Sub-Commission, and not by the Special Rapporteur. Such studies were a part of the Sub-Commission's specific mandate, whereas the Special Rapporteur's task was to collect information and report to the Commission. In any event, he already had a very heavy workload, and had had difficulty in presenting his annual reports on time.

12. Lastly, the special mechanisms should comply with their mandates, including the prescriptions contained in Commission resolutions. The OIC was very concerned at attempts by any special mechanism to choose unilaterally not to fulfil the mandate given to it by the Commission. At a special session, the Commission had asked the Special Rapporteur to visit the occupied Palestinian territories and to report on the situation there. His unilateral decision not to visit the occupied Palestinian territories had therefore been unjustified. He was not asked to report on the basis of information already available to him.

13. His decision not to visit the occupied Palestinian territories was all the more surprising in that there was overwhelming evidence of cases of torture there. Paragraph 27 should therefore be replaced by one which clearly reflected the situation and the Commission's sense of deep disappointment at the fact that he had not implemented the mandate entrusted to him.

14. After lengthy consultations between the sponsors of the draft resolution and the sponsors of the proposed amendments, there was, perhaps, only one word that stood in the way of agreement. Unfortunately, some of the sponsors of the draft resolution felt very strongly about that word, and had responded in a way which had made a vote on the proposed amendments inevitable. All too often, in the Commission, arrogance was the only answer to attempts to find a compromise.

15. Mr. FERRER RODRÍGUEZ (Cuba), introducing his delegation's proposed amendments to the draft resolution (E/CN.4/2001/L.65), said that they had unfortunately not been accepted by the sponsors of the draft resolution despite last-minute efforts during the day. However, they were very relevant to what was an omnibus resolution, in that they strengthened the political commitment to fight against torture and other cruel, inhuman or degrading treatment or punishment. It would be paradoxical to omit reference to collective treatment or punishment and to practices which occurred in prisons and camps for internally displaced persons. It was also contradictory and both legally and morally unsound not to call upon all Governments to take measures to prohibit the production, trade, export and use of equipment specifically designed to inflict torture or cruel, inhuman or degrading treatment.

16. The CHAIRPERSON said that the amendments proposed by the representatives of Pakistan and Cuba in respect of paragraph 8 seemed very similar. An agreement between the two delegations would obviate the need to consider a subamendment to an amendment.

17. Mr. AKRAM (Pakistan) said that, following consultation with the Cuban delegation, it had been decided to modify the proposed OIC amendment so that it would amount to replacing the words "prevent the" in the second line of paragraph 8 by the words "prohibit the production, trade, export and".

18. Mr. LEWALTER (Germany) said that the draft resolution, the text of which had been achieved through negotiations in which the sponsors had tried to accommodate all views, enjoyed broad support and he saw no added value in the Cuban or Pakistani amendments. For example, the Cuban amendment to paragraph 2 referred to collective punishment and specifically to deprivation of food, medicines or water, which were not covered by the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The effect of the amendments was thus to confuse or complicate the issue.

19. The issue of the trade in and production of equipment for use in torture was worth discussing, however. In that regard, the Pakistani amendment was inadequate. He therefore proposed that a reference to trade and production should be added at the end of paragraph 8, so that it would read "and requests all Governments to consider ways to prevent trade and production of such equipment". It was a more logical place to insert the point about trade and production, which were mentioned in paragraph 9, and also made the language used more consistent. Since his proposal went further than the relevant Cuban and Pakistani amendments, it should be voted on before them.

20. Mr. AKRAM (Pakistan) suggested a subamendment to the German proposal, which would consist in replacing the additional sentence by the phrase "and to prohibit trade and production of such equipment".

21. Mr. FERRER RODRÍGUEZ (Cuba) suggested a second subamendment to the text of paragraph 8 as modified by the German proposal: the words "and prohibit" should be inserted after the phrase "other measures to prevent".

22. He was surprised that the representative of Germany should attempt to adopt a fraudulent legalistic approach that would exclude various forms of collective punishment. His delegation insisted on maintaining its proposal. The sponsors of the draft resolution seemed to want to sanitize the subject, but it was time to sweep away the hypocrisy that pervaded the Commission's approach. The question at issue was not kitchenware, but instruments designed for torture.

23. Mr. LEWALTER (Germany), after deploring the use of words such as "fraudulent" in connection with members of the Commission, said that the aim of the two proposed subamendments was patently to restore the provisions contained in the original Cuban and Pakistani amendments. In other words, they were not true subamendments.

24. Mr. AKRAM (Pakistan), while agreeing on the need to maintain decorum, warned against getting entangled in legal arguments. It was legitimate for delegations to put forward subamendments reflecting their points of view and, once they had done so, those subamendments had to be voted upon first. He wondered whether the representative of Germany could see his way to withdrawing his own proposed amendment.

25. Mr. FERRER RODRÍGUEZ (Cuba) said that, to all intents and purposes, the representative of Germany was seeking a no-action motion. The Commission should simply vote on the various proposals on their merits.

26. Ms. GLOVER (United Kingdom), having expressed support for the German proposal, asked how many subamendments to a given item were allowed.

27. Mr. PETIT (France), supported by Ms. GERVAIS-VIDRICAIRE (Canada), said that the man in the street would weep at the futility of the current debate. A speedy decision should be taken as to what proposal should be voted on and then the vote should be held.

28. Mr. AKRAM (Pakistan) said he failed to understand why, if Governments could be asked to prevent the use of equipment for torture, in accordance with the text of paragraph 8 of the draft resolution, they could not be asked to prohibit the trade in and production of such equipment.

29. Mr. CHAVEZ BASAGOITIA (Peru) said that, according to the rules of procedure, the vote should be taken first on the amendment furthest removed from the original proposal. The problem was to decide which was the original proposal. Once that was settled, it should be easy to determine which subamendment should be tackled first.

30. The CHAIRPERSON said that the draft resolution E/CN.4/2001/L.47 was clearly the original proposal. Documents E/CN.4/2001/L.62 and L.65 contained proposed amendments to the draft resolution; the representative of Germany had put forward a further amendment; and the representatives of Cuba and Pakistan had each put forward a subamendment to the German amendment. Rather than voting on the subamendments first, he asked whether the representatives of Cuba and Pakistan would agree that a vote should be held on the German amendment.

31. Mr. DEMBRI (Algeria), supported by Mr. REYES RODRÍGUEZ (Colombia) and Mr. KAMBINGA SELE (Democratic Republic of the Congo), said that it was vital to avoid a rift between the countries of the North and South, which would only impede the future work of the Special Rapporteur. In accordance with rule 51 of the rules of procedure, he moved, as a matter of precedence, that debate on the draft resolution be adjourned for a few hours. The amendments proposed by the representatives of Pakistan and Cuba (in documents E/CN.4/2001/L.62 and L.65 respectively) were fully acceptable to his delegation in principle. In view, however, of the importance of the issue at stake, some additional time was required for consultations.

32. Mr. FERRER RODRÍGUEZ (Cuba) said that his delegation would prefer to proceed to an immediate vote. The question was clear, namely whether to prohibit or not to prohibit.

33. The CHAIRPERSON said that, in accordance with rule 49 of the rules of procedure, a motion had been made that debate on the draft resolution should be adjourned for a few hours.

34. It was so decided.

Draft decision: amendment to draft decision 1 of the Sub-Commission on the Promotion and Protection of Human Rights (E/CN.4/2001/L.36)

35. Mr. NAESS (Norway) introduced the draft decision.

36. The draft decision was adopted.

37. Mr. ALFONSO MARTÍNEZ (Cuba) said that, while his delegation had joined in the consensus, it was concerned lest the wording of the draft decision gave the impression that the Sub-Commission required the Commission's authorization to convene a working group which had no financial implications. No such precedent must be set.

38. The CHAIRPERSON said that other delegations would no doubt share that concern.

INTEGRATION OF THE HUMAN RIGHTS OF WOMEN AND THE GENDER PERSPECTIVE:

(a) VIOLENCE AGAINST WOMEN

(agenda item 12) (continued) (E/CN.4/2001/L.59-L.61; E/CN.4/2001/2-E/CN.4/Sub.2/2000/46, chapter I, draft decision 4)

Draft resolution on traffic in women and girls (E/CN.4/2001/L.59)

39. Mr. LEPATAN (Observer for the Philippines), introducing the draft resolution on behalf of its very large number of sponsors, said that it addressed the issue from a human rights perspective, in particular with emphasis on the need to ensure protection of and assistance to victims while penalizing traffickers and intermediaries. Non-governmental organizations (NGOs) had made a valuable contribution to the debate.

40. In paragraph 14, after the word "resources", the words "as appropriate" should be inserted.

41. Mrs. IZE-CHARRIN (Secretary of the Commission) said that the representatives of Algeria, Canada, Cuba, France, Japan, Portugal, Republic of Korea, South Africa, United States of America and Zambia and the observers for Armenia, Azerbaijan, Cambodia, Georgia, Switzerland and the Former Yugoslav Republic of Macedonia had become sponsors of the draft resolution, which had no financial implications.

42. The draft resolution, as orally revised, was adopted.

Draft resolution on elimination of violence against women (E/CN.4/2001/L.60)

43. Ms. RUECKER (Canada) introduced the draft resolution on behalf of its many sponsors. In the seventh preambular paragraph, the operative verb "Welcoming" should be replaced by the operative verb "Noting". She trusted that the draft resolution would be adopted by consensus as in past years.

44. Mrs. IZE-CHARRIN (Secretary of the Commission) said that the representatives of Argentina, Cameroon, Colombia, Costa Rica, Ecuador, France, Germany, Guatemala, Italy, Kenya, Latvia, Liberia, Madagascar, Peru, Senegal, South Africa, Spain, Uruguay, Venezuela and Zambia and the observers for Angola, Austria, Belarus, Bosnia and Herzegovina, Cyprus, El Salvador, Georgia, Greece, Israel, the Former Yugoslav Republic of Macedonia, Mongolia, Netherlands, Switzerland, Tanzania, Tunisia and Turkey, had become sponsors of the draft resolution.

45. Mr. SAHRAOUI (Algeria) said that his delegation was regrettably unable to become a sponsor of the draft resolution, since paragraph 13 referred to an instrument that had yet to enter into force. It would not, however, oppose the consensus.

46. Ms. TAHIR-KHELI (United States of America) said that her Government, as evidence of its deep commitment to the issue, had strengthened national laws to address violence against women, including immigrant women. The United States also contributed to international efforts to combat other forms of violence against women. Although her delegation strongly supported the substance of the draft resolution, it could not become a sponsor, since its strong reservations to certain elements had not been accommodated. In particular, the delegation objected to the reference, in paragraph 6, to the International Convention on the Elimination of All Forms of Discrimination Against Women, since the signing and ratification of international instruments was ultimately a sovereign decision. It would, however, be pleased to join the consensus.

47. Ms. GUSYNINA (Russian Federation) said that her delegation had already informed the Commission of the measures implemented by her Government to improve the status of women and to combat gender-based violence and discrimination. Although many of its concerns had been accommodated in the text and it would not be opposing consensus, her delegation maintained certain reservations concerning: the wording of the paragraphs referring to the mandate of the Commission and Special Rapporteur; the accuracy of references to official publications and legal sources; and the priority attached to the report of the Special Rapporteur, whose work left room for improvement. Furthermore, the enumeration of examples of violence against women in the preambular part of the text and the overall definition of the phenomenon were incomplete, even though they could not be expected to be exhaustive.

48. The draft resolution was adopted.

Draft resolution on integrating the human rights of women throughout the United Nations system (E/CN.4/2001/L.61)

49. Mr. MAURELIA (Observer for Chile), introducing the draft resolution, drew particular attention to paragraphs 3 and 9, and also to paragraph 12 which stressed the importance of mainstreaming a gender perspective into the work and outcome of the World Conference to be held in Durban later that year.

50. He read out the following text of a new paragraph 29:

> "Welcomes the resolution of the President of the General Assembly which, inter alia, encourages the Economic and Social Council to request the regional commissions, within their respective mandates and resources, to build up a database to be updated regularly, in which all programmes and projects carried out in their respective regions by agencies or organizations of the United Nations system are listed, and to facilitate their dissemination, as well as the evaluation of their impact on the empowerment of women through the implementation of the Beijing Platform for Action."

He also drew attention to an editorial change in the English text of paragraph 27, namely, Notes instead of Takes note. He hoped that the draft resolution would be adopted without a vote.

51. Mrs. IZE-CHARRIN (Secretary of the Commission) said that the representatives of Argentina, Brazil, Cameroon, Ecuador, France, Germany, Malaysia, Mauritius, Republic of Korea, South Africa and the United Kingdom and the observers for Austria, Belarus, Chile, Cyprus, Georgia, Ireland, Israel, Luxembourg, the former Yugoslav Republic of Macedonia, Philippines and Slovenia had become sponsors of the draft resolution, which had no financial implications.

52. The draft resolution, as orally revised, was adopted.

Draft decision on traditional practices affecting the health of women and the girl child (E/CN.4/2001/2-E/CN.4/Sub.2/2000/46, chapter I, draft decision 4)

53. Mr. ZIMKOVIC (Office of the High Commissioner for Human Rights), outlining the financial implications said that, under the terms of the draft decision, the Commission would approve the decision of the Sub-Commission on the Promotion and Protection of Human Rights to extend the mandate of the Special Rapporteur for a period of two years. The cost of activities to implement the decision were estimated at US$ 19,950 per year and provisions had already been included in the Programme Budget and in the proposed programme budget for the biennium 2002-2003, so no additional resources would be required.

54. The draft decision was adopted.

RIGHTS OF THE CHILD (agenda item 13) (continued) (E/CN.4/2001/L.89)

Draft resolution on the abduction of children from northern Uganda (E/CN.4/2001/L.89)

55. Mr. GAKWANDI (Observer for Uganda), introducing the draft resolution, drew attention to the sixth preambular paragraph and said that the main purpose of the draft resolution was to keep the item on the Commission's agenda. Once the report of the assessment mission established pursuant to Commission resolution 2000/60 had been received, the Commission would be able to consider concrete measures to halt those gross human rights violations. Paragraph 12 had been included by mistake and should be deleted.

56. Mr. KAMBINGA SELE (Democratic Republic of the Congo) welcomed the fact that Uganda was one of the sponsors of the draft resolution. He recalled that the Commission had recently adopted a draft resolution in which it had blamed the aggressor forces of Uganda and Rwanda for the increase in violations of the human rights of women and children in the Democratic Republic of the Congo and for the abduction of children there. The only difference between child abductions in the Democratic Republic of the Congo and those in Uganda was that, in Uganda, the children were being abducted by their fellow Ugandans. He would have liked to see a draft resolution condemning the abduction of children no matter where it occurred. His delegation would not be able to vote in favour of the draft resolution as it stood, since it could be exploited by the Government of Uganda for political purposes. He therefore asked the Commission not to consider that draft resolution at its current session.

57. Mr. OWADE (Kenya), welcoming the draft resolution, said that the issue of child abductions should be of concern to all delegations; the international community should intensify its efforts to resolve that problem. He supported the efforts that the Governments of Uganda and the Sudan were making to implement the bilateral agreement signed by their Presidents in December 1999. The interests of the children should be paramount. He appealed to the representative of the Democratic Republic of the Congo to allow the consultations to proceed so that the draft resolution could be adopted by consensus and proposed that consideration of the draft resolution should be deferred until the following day.

58. It was so decided.

SPECIFIC GROUPS AND INDIVIDUALS

(a) MIGRANT WORKERS

(b) MINORITIES

(c) MASS EXODUSES AND DISPLACED PERSONS

(d) OTHER VULNERABLE GROUPS AND INDIVIDUALS

(agenda item 14) (continued) (E/CN.4/2001/L.69 and L.70)

Draft resolution on the protection of human rights in the context of human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS) (E/CN.4/2001/L.69)

59. Mr. JAKUBOWSKI (Poland), introducing the draft resolution said that essentially it updated the resolution adopted two years earlier and called on States, specialized agencies and international and non-governmental organizations to continue to take all necessary steps for the protection of HIV-related human rights as contained in the Guidelines on HIV/AIDS and Human Rights (para. 1). Having drawn attention to paragraphs 3, 4, 5 and 10, he expressed the hope that the text would be adopted by consensus.

60. Mrs. IZE-CHARRIN (Secretary of the Commission) announced that the representatives of France, Kenya, Russian Federation, Senegal, South Africa, Swaziland, United Kingdom of Great Britain and Northern Ireland, United States of America and Zambia and the observers for Austria, El Salvador, Ghana, Iceland, Israel, Nicaragua, Togo and Ukraine had joined the sponsors of the draft resolution.

61. The draft resolution was adopted.

Draft resolution on the human rights of migrants (E/CN.4/2001/L.70)

62. Ms. ACOSTA (Mexico), introducing the draft resolution, drew attention to the fourteenth and fifteenth preambular paragraphs which noted the advisory opinion issued by the Inter-American Court of Human Rights and the adoption of the United Nations Convention against Transnational Organized Crime and the Protocol thereto. The draft resolution welcomed the commitment made in the United Nations Millennium Declaration to take steps to ensure respect for the human rights of migrants, the proclamation by the General Assembly of 18 December as International Migrants Day and the immigration programmes adopted by some countries that allowed migrants to integrate fully into the host countries. She hoped that the draft resolution would be adopted by consensus.

63. Mrs. IZE-CHARRIN (Secretary of the Commission) announced that the representative of Indonesia and the observers for Chile and Yemen had become sponsors of the draft resolution.

64. The draft resolution was adopted.

65. Mr. WATANABE (Japan), clarifying the position of his delegation, said that a distinction should be made between trafficked persons and smuggled persons. Not all smuggled persons were to be regarded as victims.

The meeting rose at 6 p.m.